REMARKS

Double Patenting

The examiner stated in part:

> **Claim 17-29, 31-38 and 44-46 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 11/549,797 because both applications recite data processing rules being a set of time based rules, the time based rules including at least one of a direct rule that immediately instantiates offers based on an offer campaign, a triggered rule that instantiates offers based on the occurrence of particular conditions, and a stared rule that instantiates offers based on user interaction with previous offers**

While Applicant does not concede that the examiner's analysis of the claims of the two co-pending applications is correct, Applicant will consider either the filing of a terminal disclaimer or arguing over the rejection when the examiner indicates allowable subject matter in the respective applications.

Claim Rejections - 35 USC § 103

The examiner rejected Claims 17-29, 31-38 and 44-46 under 35 U.S.C. 103(a) as being unpatentable over Benthin al. (2002/0035568 hereinafter Benthin) in view of Langseth et al. (6,694,316 hereinafter Langseth).

Claim 17 recites "at least one of the offer data processing rules being a set of time based rules, the time based rules including at least one of a direct rule that immediately instantiates offers based on an offer campaign, a triggered rule that instantiates offers based on the occurrence of particular conditions, and a staged rule that instantiates offers based on user interaction with previous offers" and also recites "selecting one of the time based rules to determine a subsequent set of offers to send to the specific individuals."

The examiner stated in part:

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With respect to claims 17, 19-20,25-27, 31, 33, 35-36, 44 Benthin teaches a computer-controlled method for managing and distributing offers (abstract). Producing a marketing campaign comprising a plurality of offers specified by offer data processing rules, executed by the computer, from which one or more of the offers are identified for targeting specific individuals being a set of time based rules, the time based rules including at least one of a direct rule that immediately instantiates offers based on an offer campaign, a triggered rule that instantiates offers based on the occurrence of particular conditions, and a staged rule that instantiates offers based on user interaction with previous offers (i.e. controlling the presentation of when to transmit the offers to the customers, paragraphs 0031 and 0041 teaches automatic offers that are presented right away; paragraph 0030 teaches presenting the offers if it fit the customer profile and paragraph 0024 teaches the customer clicking on ads to determine which campaign of offers to present to the customer)(see also Figure 1); selecting one of the time based rules to determine a subsequent set of offers to send the specific individuals (see paragraph 0036);

Applicant contends that the alleged combination of Benthin and Langseth neither describes nor renders obvious at least the features of, "producing a marketing campaign comprising a plurality of offers specified by offer data processing rules…at least one of the offer data processing rules being a set of time based rules, the time based rules including at least one of a direct rule that immediately instantiates offers based on an offer campaign, a triggered rule that instantiates offers based on the occurrence of particular conditions, and a staged rule that instantiates offers based on user interaction with previous offers," and the features of "selecting one of the time based rules to determine a subsequent set of offers to send to the specific individuals."

Paragraphs 0024, 0030, 0031, and 0042 of Benthin are reproduced below:

[0024] FIG. 2A is a flow chart of the steps carried out by the customer when using the system of the present invention. The customer first logs in 30 the system. A campaign is then determined 32 to be presented to the customer. A first segment of a dialog is selected 34 according to the campaign chosen. The segment is customized using the customer's preferences 36 to be presented on the customer's interface. The segment is then presented 38. If the prompt contained in the segment is attractive, the customer will probably perform an action such as clicking on a link. This action will be recorded and analyzed 40. The user's action generates a system event, which may cause further system responses this will determine the next segment of the dialog to present 42. Again, the segment will first be customized 44 and then presented 46. This process will continue until the dialog is over.

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[0030] The first step is simply to provide a name for the campaign. The second step is to select the product or products or service or services to be involved in the campaign. The user is able to select information, including products and/or services according to different categories. The next step is to select customer profiles. The campaign editor 20 receives a full specification of the customer profile data set. This allows customer groups to be targeted. In the preferred embodiment, the step of selecting customer profiles also includes the use of customer action filters, which allows more sophisticated logic and arithmetic to be involved in deciding customer profiles that are to be selected. For example, a filter would be: customers who are medical doctors in private practice who have current drug prescription habits, and who have expressed interest in a specific type of information about a new drug. Customer groups may be created at this point or at another time by following these sub-steps: naming the customer group and creating constraints. Membership in customer groups may change over time based on the evolution of user profiles and a customer may belong to more than one customer group.

[0031] The next step involved in defining a campaign in the campaign editor/creator 20 is to specify what HTML content is to be provided to the customer (known as dialog). A campaign may also include within its definition that it is to be activated when a customer selects a predetermined page within an HTML site. The campaign editor may be used to specify the content to be automatically presented to a customer by specifying a particular template for an HTML page presentation. Such templates may be predefined using a separate dialog or template definition module. Dialogs may be created at this point or at another time by following these sub-steps: naming the dialog, selecting customer groups, choosing dialog templates, and specifying the rules for adding content to the dialog page.

[0042] In short, the preferred embodiment of the present invention uses content delivery and user profiling methods based on content and presentation rules known as campaigns and dialogs. A campaign is a set of content and presentation rules used to target a promotion to a specified user group, following a specific schedule. Dialogs are content sequencing rules. They represent a decision tree, which the customer then navigates depending on his or her choices, and on their profiles.

Benthin describes presenting campaigns to a customer, allowing a user to select customers based on customer profiles, allowing a user to choose campaign content to present to a customer, and campaigns and dialogs. Thus, the passages cited by the examiner only describe different operations of a system for managing marketing campaigns. In contrast, claim 17 requires that "at least one of the offer data processing rules being a set of time based rules, the time based rules including at least one of a direct rule that immediately instantiates offers based

on an offer campaign, a triggered rule that instantiates offers based on the occurrence of particular conditions, and a staged rule that instantiates offers based on user interaction with previous offers."

To the extent that the examiner believes Benthin describes concepts related to the features of the claim, none of the teachings in Benthin describe a time based rule that instantiates offers, for example, either in the form of a direct rule, a triggered rule, or a staged rule. Rather, in making this rejection, the examiner attempts to read elements of the claim from portions of Benthin that are misconstrued by the examiner because either the examiner does not address the complete element of the claim or because the examiner considers the element to be present in Benthin when the reference itself makes no such mention of the element.

Further, paragraph 0036 of Benthin is reproduced below:

> **[0036] The next step in defining the campaign is to identify scheduling for the campaign. The user needs to identify the frequency of occurrence (i.e., start date and time, end date and time, whether the campaign is offered at all times or only selected times, as well as on all days or only selected days) and the total number of times the campaign is shown. The user can be provided with a campaign summary view of each campaign programmed using the campaign editor 20. Such campaign summaries can be printed out for review.**

Benthin only describes identifying the schedule and frequency for a campaign. In contrast, claim 17 calls for selecting one of the time based rules to determine a subsequent set of offers to send to the specific individuals. This passage of Benthin only describes campaign scheduling in general and says nothing about, for example, a subsequent set of offers, specific individuals to whom offers are sent, or a determination based on the selection of a time based rule.

That is, Benthin whether at this passage or elsewhere neither describes nor renders obvious the combination of: "at least one of the offer data processing rules being a set of time based rules, the time based rules including at least one of a direct rule that immediately instantiates offers based on an offer campaign, a triggered rule that instantiates offers based on the occurrence of particular conditions, <u>and</u> a staged rule that instantiates offers based on user

interaction with previous offers. Moreover, nothing in Benthin further teaches to select one of the time based rules to determine a subsequent set of offers to send to the specific individuals.

Langseth does not remedy any of the deficiencies of Benthin. Thus, for at least these reasons, claim 17 is believed to be patentable over Benthin in view of Langseth. Independent claims 31 and 33 include limitations that are similar to those of claim 17. These claims are also believed to be patentable for at least the same reasons noted above.

Each of the pending dependent claims is also believed to define patentable features of the invention. Each dependent claim partakes of the novelty of its corresponding independent claim and, as such, has not been addressed specifically herein.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

The Extension of Time fee in the total amount of $1110 is being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account. Please apply any other charges or credits to deposit account 06-1050.

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Respectfully submitted,

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